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Defendants Almont Ambulatory Surgery
16 Center, LLC, et al.

17 UNITED STATES DISTRICT COURT

18 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

19
20 ALMONT AMBULATORY
21 SURGERY CENTER, LLC, a
22 California limited liability company, et
al.,

23 Plaintiffs,
24 v.

25 UNITEDHEALTH GROUP, INC.;
26 UNITED HEALTHCARE SERVICES,
INC., UNITED HEALTHCARE
27 INSURANCE COMPANY;
OPTUMINSIGHT, INC., and DOES 1
through 20,

28 Defendants.

Case No. 2:14-cv-03053-MWF(VBKx)
Hon. Michael W. Fitzgerald

[Related to Case No. 2:14-cv-02139]

**COUNTERCLAIM DEFENDANTS'
UNOPPOSED EX PARTE
APPLICATION FOR REDACTION
OF TRANSCRIPT**

[Fed. R. Civ. P. 5.2(e)]

[Proposed] Order filed concurrently]

1 UNITED HEALTHCARE SERVICES,
2 INC., UNITED HEALTHCARE
INSURANCE COMPANY;
3 OPTUMINSIGHT, INC.,

Counterclaim Plaintiffs,

4 v.

5 ALMONT AMBULATORY
6 SURGERY CENTER, LLC, a
California limited liability company; et
7 al.,

Counterclaim Defendants.

Discovery Cutoff: None Set

Pretrial Conference Date: None Set

Trial Date: None Set

1 Individual Counterclaim Defendants Michael Omid, M.D. and Julian Omid
2 and Plaintiffs and Counterclaim Defendants Almont Ambulatory Surgery Center,
3 LLC, et al. (collectively "Counterclaim Defendants") hereby do move this Court to
4 redact portions of the Transcript of the December 12, 2014 discovery hearing before
5 Magistrate Judge Victor B. Kenton. (DKT 98.) Counterclaim Defendants timely
6 filed their Notice of Intent to Redact on December 29, 2014. (DKT 105.)

7 During the December 12, 2014 hearing, reference was made to matters
8 regarding Magistrate Judge Victor B. Kenton's issuance of warrants in furtherance
9 of the criminal investigation of various Counterclaim Defendants that are not in the
10 public record. Therefore, Counterclaim Defendants request that any publicly
11 available copies of the Transcript of the December 12, 2014 hearing be redacted
12 consistent with attached Exhibit 1 (redacting text appearing at page 17, line 25 to
13 and including page 20, line 22).

14 Consequently, Counterclaim Defendants respectfully request that this *ex parte*
15 application for an order redacting the Transcript be granted. Per Local Rule 7-19.1,
16 Counterclaim Defendants notified counsel for Defendants and Counterclaim
17 Plaintiffs, Bryan Westerfeld (Walraven & Westerfeld LLP, 101 Enterprise, Suite
18 350, Aliso Viejo, CA 92656, 949-215-1997, bwesterfeld@calemployerlaw.com; and
19 R. J. Zayed (Dorsey & Whitney LLP, Suite 1500, 50 South Sixth Street,
20 Minneapolis, MN 55402-1498, 612-340-2600, zayed.rj@dorsey.com) that they
21 would be making this application. Counsel for Defendants and Counterclaim
22 Plaintiffs do not oppose this application.

1 Dated: December 30, 2014

2 Respectfully submitted,

3 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
4

5 By /s/ Charles L. Kreindler
6 CHARLES L. KREINDLER
7 Attorneys for Individual Counterclaim
8 Defendants Michael Omid, M.D.
9 and Julian Omid

10 HOOPER, LUNDY & BOOKMAN, P.C.

11 By /s/ Daron L. Tooch
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13 Attorneys for Plaintiffs and Counterclaim
14 Defendants Almont Ambulatory Surgery
15 Center, LLC, et al.
16
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EXHIBIT 1

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

ALMONT AMBULATORY SURGERY)
CENTER, LLC, ET AL.,)
)
)
 PLAINTIFFS,)
)
 V.) CV 14-03053-MWF (VBK)
) DECEMBER 12, 2014
)
 UNITEDHEALTH GROUP, INC.,)
 ET AL.,)
) (10:02 A.M. TO 10:21 A.M.)
)
 DEFENDANTS.)
)

HEARING
BEFORE THE HONORABLE VICTOR B. KENTON
UNITED STATES MAGISTRATE JUDGE

APPEARANCES: SEE NEXT PAGE
COURT REPORTER: RECORDED; COURT SMART
COURTROOM DEPUTY: ROXANNE HORAN
TRANSCRIBER: DOROTHY BABYKIN
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PROCEEDINGS RECORDED BY ELECTRONIC SOUND RECORDING;
TRANSCRIPT PRODUCED BY TRANSCRIPTION SERVICE.

1 APPEARANCES: (CONTINUED)

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14 FOR DEFENDANTS AND WALRAVEN & WESTERFELD LLP
15 COUNTERCLAIM BY: BRYAN SCOTT WESTERFELD
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20 FOR DR. MICHAEL OMIDI SHEPPARD MULLIN RICHTER & HAMPTON
21 AND JULIAN OMIDI: BY: BARBARA E. TAYLOR
22 CHARLES L. KREINDLER
23 ATTORNEYS AT LAW
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25 43RD FLOOR
LOS ANGELES, CALIFORNIA 90071

3

I N D E X

CASE CV 14-03053-MWF (VBK)

DECEMBER 12, 2014

PROCEEDINGS: DEFENDANT AND COUNTERCLAIM DEFENDANTS '
MOTION FOR PROTECTIVE ORDER

1 LOS ANGELES, CALIFORNIA; FRIDAY, DECEMBER 12, 2014

2 10:02 A.M.

3 THE CLERK: THIS COURT IS NOW IN SESSION. THE
4 HONORABLE VICTOR B. KENTON, UNITED STATES MAGISTRATE JUDGE,
5 PRESIDING.

6 CALLING CASE NUMBER CV 14-3053-MWF(VBKX), ALMONT
7 AMBULATORY SURGERY CENTER VERSUS UNITEDHEALTH GROUP, ET AL.

8 COUNSEL, PLEASE MAKE YOUR APPEARANCES FOR THE
9 RECORD.

10 MR. CHAN: GOOD MORNING, YOUR HONOR.

11 ERIC CHAN OF HOOPER LUNDY & BOOKMAN FOR THE
12 PLAINTIFFS AND FOR THE COUNTER DEFENDANT PROVIDERS -- THE
13 ENTITY COUNTER DEFENDANTS.

14 MR. KREINDLER: GOOD MORNING, YOUR HONOR.

15 CHUCK KREINDLER AND BARBARA TAYLOR ARE APPEARING ON
16 BEHALF OF THE INDIVIDUAL CROSS-DEFENDANTS DR. MICHAEL OMIDI
17 AND JULIAN OMIDI.

18 THE COURT: ALL RIGHT. THANK YOU.

19 MR. WESTERFELD: GOOD MORNING, YOUR HONOR.

20 BRYAN WESTERFELD ON BEHALF OF DEFENDANTS AND
21 CROSS-COMPLAINANTS.

22 THE COURT: ALL RIGHT. THANK YOU.

23 HAVE A SEAT.

24 WE'LL DO THE TWO MOTIONS. WE'RE GOING TO HAVE
25 BRIEF ARGUMENT. THE CLERK HAS INDICATED WE'LL HOLD YOU TO

1 THAT.

2 LET'S DO THE MOTION FOR A PROTECTIVE ORDER FIRST.

3 WHO WANTS TO ADDRESS THAT?

4 MS. TAYLOR: I CAN START.

5 ON THE --

6 THE COURT: FROM THE LECTERN, PLEASE.

7 MS. TAYLOR: OH, SORRY.

8 THE COURT: WALKING TO THE LECTERN WILL NOT COUNT
9 AGAINST YOUR TIME.

10 (LAUGHTER.)

11 MS. TAYLOR: THAT'S A GOOD IDEA.

12 ON THE PROTECTIVE ORDER, WE AGREE WITH YOUR
13 PROPOSED LANGUAGE, YOUR HONOR. WE THINK THAT WILL ADDRESS
14 THE ISSUE REGARDING GIVING US NOTICE IF DOCUMENTS ARE TURNED
15 OVER PURSUANT TO A GOVERNMENT REQUEST.

16 I JUST WANT TO CLARIFY ONE POINT. YOU INDICATED IN
17 ADDITION TO SUBPOENAS WRITTEN REQUESTS, I JUST WANT TO MAKE
18 SURE THAT WE ALL UNDERSTAND IF THE GOVERNMENT MAKES AN ORAL
19 REQUEST TO UNITED, THAT UNITED IS PRECLUDED FROM COMPLYING
20 WITH THAT.

21 WOULD THAT BE A CORRECT UNDERSTANDING?

22 THE COURT: I'VE NEVER HEARD OF AN ORAL REQUEST FOR
23 DOCUMENTS, BUT IT MAY BE BEYOND THE SEMANTIC POINT.

24 WHAT DO YOU FOLKS THINK -- LEAVE HER AT THE
25 LECTERN. WHAT DO YOU THINK ABOUT THAT? DO WE NEED TO CHANGE

1 THAT? DO YOU WANT TO JUST MAKE IT A REQUEST?

2 MR. ZAYED: YOUR HONOR, R.J. ZAYED ON BEHALF OF
3 UNITED. THAT'S ACCEPTABLE.

4 THE COURT: WOULD THAT SATISFY EVERYBODY?

5 MS. TAYLOR: JUST MAKE IT A REQUEST?

6 THE COURT: YOU CAN DO THAT, I SUPPOSE.

7 MS. TAYLOR: YES, OKAY. THAT WOULD -- THAT WOULD
8 WORK.

9 AND, THEN, YOUR HONOR, ONE OTHER POINT, WE DIDN'T
10 HAVE IT AS AN ISSUE IN DISPUTE IN OUR PAPERS, BUT THERE'S ONE
11 ADDITIONAL PROVISION IN THE PROTECTIVE ORDER THAT WE'RE STILL
12 NEGOTIATING. AND I THINK WE CAN AGREE WITHOUT THE COURT'S
13 INTERVENTION ON THAT PROVISION. BUT WE BELIEVE THAT WE CAN'T
14 HAVE THE PROTECTIVE ORDER ENTERED UNTIL WE'VE RESOLVED THAT
15 ONE POINT. BUT WE'LL BE ABLE TO DO IT WITHOUT YOUR
16 ASSISTANCE, YOUR HONOR.

17 THE COURT: MUSIC TO MY EARS.

18 MS. TAYLOR: OKAY.

19 THE COURT: ALL RIGHT. SO, I WILL ISSUE A FINAL
20 ORDER THAT PARALLELS THE TENTATIVE UNLESS --

21 DO YOU HAVE SOME PROBLEMS WITH THE TENTATIVE ORDER?

22 MR. ZAYED: YES, I HAVE ONE ISSUE, YOUR HONOR.

23 THE COURT: ALL RIGHT. WELL, YOU CAN SWITCH
24 POSITIONS.

25 MS. TAYLOR: OKAY.

7

1 MR. ZAYED: AGAIN, GOOD MORNING, YOUR HONOR. R.J.
2 ZAYED.

3 BRIEFLY, WE'RE IN AGREEMENT WITH THE COURT'S ORDER.
4 WE'RE FINE WITH THAT.

5 THERE'S ONLY ONE CLARIFICATION THAT WE REQUEST. IN
6 THE OPENING PARAGRAPH OF THE COURT'S ORDER IT STATES:

7 "IF A PARTY IS SERVED WITH A WRITTEN REQUEST
8 FROM A GOVERNMENT AGENCY, OR A SUBPOENA OR
9 COURT ORDER ISSUED IN OTHER LITIGATION THAT
10 COMPELS THE DISCLOSURE OF ANY INFORMATION
11 DESIGNATED IN THIS ACTION AS CONFIDENTIAL, THAT
12 PARTY MUST."

13 THE COURT: OKAY.

14 MR. ZAYED: THE CONFIDENTIAL DESIGNATION I WOULD
15 LIKE THE ADDITION THAT IS DESIGNATING THIS ACTION AS
16 CONFIDENTIAL "BY AN OPPOSING PARTY."

17 BECAUSE A LITERAL READING OF THAT STATEMENT AS IT
18 IS, UNITED SHOULD NOT HAVE TO DISCLOSE TO THE PLAINTIFFS
19 DOCUMENTS THAT IT ITSELF HAS, THAT -- ITS OWN DOCUMENTS WHICH
20 IT DESIGNATED AS CONFIDENTIAL. IT SHOULD ONLY BE REQUIRED TO
21 DISCLOSE DOCUMENTS DESIGNATED BY OTHER PARTIES AS
22 CONFIDENTIAL. AND, SO, I WOULD ASK FOR THE ADDITION OF "BY
23 AN OPPOSING PARTY." BUT OTHER THAN THAT, WE'RE FINE WITH THE
24 ORDER.

25 THE COURT: WELL, MAYBE I'M MISSING SOMETHING.

1 DOES IT REALLY MATTER WHO DESIGNATED IT AS
2 CONFIDENTIAL?

3 MR. ZAYED: IT MATTERS IF WE DESIGNATED SOMETHING
4 AS CONFIDENTIAL AND IT IS OUR INFORMATION. WE DON'T BELIEVE
5 WE HAVE TO GIVE THEM NOTICE OF WHAT WE PROVIDED WITH OUR OWN
6 DOCUMENTS, WHAT WE DO WITH OUR OWN DOCUMENTS WITH RESPECT TO
7 A RESPONSE TO A SUBPOENA.

8 THE COURT: WELL, I DON'T KNOW. LET ME HEAR FROM
9 COUNSEL ON THAT.

10 MS. TAYLOR: WELL, YOU KNOW, IN PRINCIPLE, I GUESS
11 IT MAKES SENSE IF IT'S HIS OWN DOCUMENTS. IT'S UNITED'S
12 DOCUMENTS. THEY DESIGNATED IT CONFIDENTIAL. THEY WOULDN'T
13 NECESSARILY HAVE TO LET US KNOW BEFORE THEY TURN THEM OVER
14 PURSUANT TO A SUBPOENA.

15 I THINK, THOUGH, NOT JUST AN OPPOSING PARTY, BUT IF
16 IT'S THIRD-PARTY DOCUMENTS, WE SHOULD HAVE AN OPPORTUNITY TO
17 HAVE NOTICE OF IT. BUT UNITED'S OWN DOCUMENTS THAT THEY'VE
18 DESIGNATED CONFIDENTIAL, YES, I WOULDN'T THINK WE WOULD NEED
19 TO KNOW ABOUT THAT BEFOREHAND.

20 MR. CHAN: I THINK IT'S DESIGNATED BY AN OPPOSING
21 PARTY AS WELL IS WHAT WE'VE SAID, SO.

22 MS. TAYLOR: WELL, WHAT IF A THIRD PARTY THOUGH --

23 MR. CHAN: BUT THAT WOULD BE YOUR DESIGNATION -- IF
24 YOU DESIGNATE THAT AS CONFIDENTIAL.

25 MS. TAYLOR: OR --

1 THE COURT: WE DON'T WANT -- WE DON'T WANT TO GET
2 INTO THIS.

3 MS. TAYLOR: YES.

4 THE COURT: HOLD ON HERE.

5 MR. CHAN: SORRY, YOUR HONOR.

6 MS. TAYLOR: YES, SORRY.

7 THE COURT: REAL FEDERAL COURT PRO OVER THERE, YOU
8 KNOW, WHO KNOWS THAT WE DON'T DO THAT. SO, THANK YOU FOR THE
9 WARNING.

10 BUT THAT'S OKAY. YOU CAN ADDRESS ME. I LIKE TO
11 KEEP THE FORMALITY.

12 LET'S JUST GET SOME LANGUAGE HERE. OKAY.
13 DESIGNATED. LET'S GET LANGUAGE MUTUALLY AGREEABLE AFTER THE
14 WORD "DESIGNATED." DO YOU WANT TO SAY "BY AN OPPOSING
15 PARTY"? WE'LL START WITH THAT.

16 MR. ZAYED: YOUR HONOR, IT WOULD BE:

17 "DESIGNATED THIS ACTION AS CONFIDENTIAL BY
18 AN OPPOSING OR THIRD PARTY."

19 THAT WOULD BE ACCEPTABLE.

20 THE COURT: IS THAT ALL RIGHT?

21 MS. TAYLOR: THAT SEEMS TO COVER IT, RIGHT. AND WE
22 HAVE TO PREPARE A NEW PROTECTIVE ORDER ANYWAY TO ADD IN THIS
23 PROVISION WE'RE STILL NEGOTIATING, SO.

24 THE COURT: WELL --

25 MS. TAYLOR: BUT WE CAN AGREE ON THIS PROVISION

10

1 HERE TODAY.

2 THE COURT: NO, I UNDERSTAND YOU HAVE SOMETHING
3 ELSE YOU'RE STILL WORKING ON.

4 SO, LET ME TELL YOU WHAT THIS FIRST PARAGRAPH IS
5 GOING TO SOUND LIKE AND SEE IF IT'S AGREEABLE.

6 "IF A PARTY IS SERVED WITH A REQUEST FROM
7 A GOVERNMENT AGENCY OR A SUBPOENA OR A COURT
8 ORDER ISSUED IN OTHER LITIGATION THAT COMPELS
9 DISCLOSURE OF ANY INFORMATION DESIGNATED IN
10 THIS ACTION AS CONFIDENTIAL BY AN OPPOSING" --
11 ACTUALLY IT SHOULD BE AFTER THE WORD "DESIGNATED."

12 MR. ZAYED: THAT'S FINE, YOUR HONOR.

13 THE COURT: YES, OKAY. LET ME JUST GET THAT
14 "DESIGNATED."

15 -- "DESIGNATED BY AN OPPOSING OR THIRD PARTY
16 IN THIS ACTION AS CONFIDENTIAL, THAT PARTY MUST" --
17 ET CETERA, ET CETERA.

18 MS. TAYLOR: YOUR HONOR, CAN I JUST ASK FOR ONE
19 MORE POINT.

20 THE COURT: SURE.

21 MS. TAYLOR: INSTEAD OF SAYING "IS SERVED WITH,"
22 COULD WE JUST SAY "RECEIVES" SINCE WE WANT TO EMBODY ORAL
23 REQUESTS TO THE EXTENT THERE MAY BE ORAL REQUESTS.

24 THE COURT: ANY PROBLEM WITH THAT?

25 MR. ZAYED: NO, YOUR HONOR.

11

1 THE COURT: THIS IS FINE. THIS NOW BECOMES A
2 TEMPLATE FOR OTHER CASES. SO, LET'S CONTINUE WORKING ON IT.

3 MS. TAYLOR: GREAT. THANK YOU, YOUR HONOR.

4 THE COURT: ALL RIGHT.

5 "IF A PARTY RECEIVES A REQUEST," ET CETERA, AND,
6 THEN, IT WILL BE AFTER THE WORD "DESIGNATED" THAT WE'LL PUT
7 "BY AN OPPOSING OR THIRD PARTY," AND THEN CONTINUE ON.

8 OKAY. ASSUMING MY SECRETARY CAN READ THIS, WE
9 SHOULD GET SOMETHING THAT MAKES SENSE.

10 CAN WE MOVE ON TO THE NEXT ONE?

11 MS. TAYLOR: YES.

12 THE COURT: OKAY.

13 ALL RIGHT. SO, THIS IS THE COUNTERCLAIM
14 DEFENDANT'S MOTION TO QUASH THIRD-PARTY SUBPOENAS.

15 I'M HAPPY TO TAKE SOME ARGUMENT ON THIS.

16 MR. KREINDLER: YOUR HONOR, WE APPRECIATE THE
17 TENTATIVE. AND I DON'T REALLY WANT TO SPEND VERY MUCH TIME
18 TRYING TO TALK YOU OUT OF THAT TENTATIVE, ALTHOUGH WE -- WE
19 DO OBVIOUSLY RESERVE OUR RIGHT TO OBJECT TO THE COURT'S
20 RECOMMENDATION TO THE DISTRICT COURT.

21 REALLY WHAT I WANTED TO DISCUSS --

22 THE COURT: MAY I JUST -- MAY I JUST INDICATE. I
23 FULLY AGREE. TAKE ME UP IF YOU WANT, BUT IT'S NOT A
24 RECOMMENDATION. IT IS AN ORDER -- JUST SO WE'RE CLEAR ON
25 THAT. THIS IS AN ACTUAL ORDER WHICH YOU HAVE TO TIMELY FILE

12

1 A NOTICE THAT YOU WANT TO CHALLENGE. AND YOU'RE WELCOME TO
2 DO THAT, OF COURSE.

3 MR. KREINDLER: UNDERSTOOD.

4 THE COURT: OKAY. GO AHEAD.

5 MR. KREINDLER: UNDERSTOOD, YOUR HONOR.

6 I DID WANT TO BRING UP WITH THE COURT THE ISSUE OF
7 A POTENTIAL STAY OF THE DISCOVERY AGAINST MICHAEL AND JULIAN
8 OMIDI. JUST SO THE COURT KNOWS, PRIOR TO YOU TAKING THE
9 BENCH WE HAD A DISCUSSION WITH COUNSEL, AND WE HAVE AGREED
10 THAT WE WOULD GO AHEAD AND FILE A MOTION FOR STAY BEFORE YOUR
11 HONOR AT THE SOONEST POSSIBLE TIME. WE'RE GOING TO WORK ON A
12 BRIEFING SCHEDULE TO STAY THIS.

13 AND IN THE MEANTIME UNITED HAS AGREED NOT TO SERVE
14 ANY ADDITIONAL THIRD-PARTY SUBPOENAS NOR PURSUE THE ONES THEY
15 HAVE ALREADY SERVED UNTIL THAT MOTION IS FINALLY DECIDED BY
16 YOUR HONOR.

17 THE COURT: NO, I APPRECIATE THE HEAD'S UP. BUT
18 LET ME JUST MAKE A CORRECTION ON THAT.

19 THE MOTION TO STAY HAS TO GO TO JUDGE FITZGERALD,
20 NOT TO ME.

21 MR. KREINDLER: WELL, HE -- YOUR HONOR, I
22 APPRECIATE --

23 THE COURT: UNLESS HE SENT IT BACK --

24 MR. KREINDLER: HE DID.

25 THE COURT: ARE WE PING-PONGING THIS NOW?

1 MR. KREINDLER: YES. WE HAD OUR HEARING BEFORE --
2 EXACTLY. WE HAD OUR HEARING BEFORE JUDGE FITZGERALD ON
3 WEDNESDAY IT WAS, AND I BROUGHT THIS ISSUE UP. AND HE -- I
4 THINK HE INSTRUCTED US TO COME HERE FOR THE MOTION TO STAY.

5 AND I SPECIFICALLY BROUGHT UP -- I DON'T WANT TO
6 GET CAUGHT BETWEEN THE TWO COURTS --

7 THE COURT: RIGHT.

8 MR. KREINDLER: I ASSUME THAT WAS COUNSEL FOR
9 UNITED'S UNDERSTANDING AS WELL, THAT IT SHOULD BE BEFORE YOUR
10 HONOR.

11 THE COURT: WELL, IF THAT'S WHAT JUDGE FITZGERALD
12 WANTS, YOU KNOW, I'M ONLY ON THE FIFTH FLOOR. HE'S OVER ON
13 THE 16TH. HE'S GOT -- WHAT? -- ELEVEN FLOORS ON ME AND A
14 TITLE.

15 BUT IN ALL SERIOUSNESS, I WOULD HAVE THOUGHT HE
16 WOULD DO IT BECAUSE, YOU KNOW, HE'S GOT THE SCHEDULING ORDER.
17 SO, IF HE SENDS ME YOUR STIPULATION TO STAY AS TO THE OMIDIS,
18 HOW THAT WOULD AFFECT THE REST OF THE CASE AND THE SCHEDULING
19 ORDER, THAT'S -- THAT'S WHY I SAY IT'S A DISTRICT JUDGE
20 DECISION BECAUSE IT'S NOT A CONSENT CASE.

21 SO, I DON'T KNOW WHEN YOUR -- DO YOU ALREADY HAVE A
22 SCHEDULING ORDER WHICH CUTS OFF DISCOVERY, FACT DISCOVERY,
23 THAT SORT OF THING?

24 MR. ZAYED: NO, YOUR HONOR. WE DON'T HAVE AN ORDER
25 YET.

1 THE COURT: OH, YOU DON'T.

2 WELL, DO YOU BOTH AGREE -- I MEAN, DO YOU AGREE,
3 COUNSEL, THAT JUDGE FITZGERALD WANTS THAT TO COME TO ME?

4 MR. ZAYED: I BELIEVE SO, YOUR HONOR. I WASN'T
5 CLEAR EXACTLY WHAT JUDGE FITZGERALD ACTUALLY ORDERED. IT
6 SEEMED TO ME THAT MR. KREINDLER WAS ASKING WHERE DO I BRING
7 THE STAY, AND THERE WAS A COLLOQUY, AND I BELIEVE THAT THE
8 JUDGE MAY HAVE REFERRED IT TO YOUR HONOR, BUT I'M NOT
9 POSITIVE.

10 MR. KREINDLER: THAT WASN'T COMPLETELY CLEAR, YOUR
11 HONOR. I MEAN, I'M HAPPY TO BRING IT BEFORE JUDGE FITZGERALD
12 OR YOUR HONOR. IT DOESN'T REALLY MATTER TO ME. I JUST WANT
13 SOMEBODY TO RULE ON IT.

14 THE COURT: RIGHT. YOU ONLY HAVE TWO JUDGES, AND
15 WE'RE ALL TRYING TO -- OKAY. WE'RE NOT TRYING TO AVOID WORK.

16 IN ALL SERIOUSNESS, I THINK IF THERE'S ANY LACK OF
17 SURENESS ON YOUR PART, THAT YOU OUGHT TO DEFAULT TO FILING IT
18 WITH JUDGE FITZGERALD. AND, YOU KNOW, IF HE COMES BACK TO
19 YOU AND SAYS I TOLD YOU TO FILE IT WITH JUDGE KENTON. WELL,
20 YOU KNOW, I DON'T THINK THAT WILL HAPPEN. HE COULD ALWAYS
21 SEND IT OVER HERE. BUT FOR THE REASONS I STATED I THINK IT
22 CREATES SOME POTENTIAL CONFUSION IN THE SCHEDULING OF THE
23 CASE.

24 YOU HAVEN'T HAD A SCHEDULING CONFERENCE YET? IS
25 THAT PLANNED?

1 MR. ZAYED: NO, YOUR HONOR.

2 THE COURT: NO.

3 MR. ZAYED: BECAUSE -- THE PROBLEM, YOUR HONOR, IS
4 THAT THIS IS RELATED TO ANOTHER MASSIVE CASE THAT'S BEFORE
5 JUDGE FITZGERALD. WE COMPLETED THE RULE 26(F) IN THIS -- IN
6 OUR CASE, BUT THE JUDGE DEFERRED HOLDING A RULE 16 CONFERENCE
7 UNTIL HE LOOKED AT THE MOTIONS TO DISMISS ON ALL THE MATTERS
8 AND FIGURED OUT WHAT HE WANTED TO DO. SO, WE STILL HAVE NOT
9 HAD OUR RULE 16 CONFERENCE. WE'VE COMPLETED OUR RULE 26(F)
10 REPORT WITH OUR PROPOSED DATES, BUT WE HAVE NOT HAD THE
11 CONFERENCE.

12 THE COURT: UH-HUH.

13 MR. KREINDLER: YES, IT'S ALSO LIKELY THAT THERE
14 WILL BE ANOTHER AMENDED CROSS-COMPLAINT THAT WILL BE FAIRLY
15 SIGNIFICANT. SO, THAT MAY PLAY INTO IT AS WELL.

16 THE COURT: WELL, IF YOU -- YOU'VE AGREED TO --
17 BETWEEN YOURSELVES STAY DISCOVERY AS TO -- MAY I CALL THEM
18 THE OMIDIS, RIGHT? SO, IN TERMS OF TIMING, FOR THE COURT TO
19 APPROVE YOUR STIPULATION, I GATHER YOU'RE WILLING TO WAIT
20 UNTIL A COURT -- THIS COURT OR JUDGE FITZGERALD -- SIGNS AN
21 ORDER.

22 AND I SAY THAT BECAUSE IF IT COMES TO ME, YOU KNOW,
23 WITH THE HOLIDAYS COMING UP, WE HAVE NEXT WEEK. BUT AS FAR
24 AS THE LAST TWO WEEKS OF THE YEAR THEY'RE KIND OF SPOTTY.
25 SO, HOPEFULLY, THAT WILL WORK FOR YOU, AND YOU'RE JUST GOING

1 TO CONTINUE ON WITH YOUR PRIVATE AGREEMENT.

2 MR. ZAYED: YES.

3 THE COURT: IT DOESN'T SEEM TO BE PREJUDICIAL SINCE
4 YOU'RE NOT LOOKING AT A DEADLINE AT THIS POINT.

5 MR. ZAYED: IF I MAY, YOUR HONOR, JUST TO BE CLEAR.

6 THE COURT: OKAY.

7 MR. ZAYED: UNITED DOES NOT AGREE TO ANY STAY.

8 THE COURT: OH.

9 MR. ZAYED: WHAT WE HAVE AGREED TO IS A BRIEFING TO
10 AGREE -- THEY'RE GOING TO BRING A MOTION TO STAY.

11 THE COURT: I SEE.

12 MR. ZAYED: WE'RE GOING TO OPPOSE IT.

13 THE COURT: RIGHT.

14 MR. ZAYED: AS A MATTER OF COURTESY BETWEEN THE
15 PARTIES, WE'VE AGREED -- OKAY. LET'S AGREE TO A BRIEFING
16 SCHEDULE. LET'S BRING THAT MOTION BEFORE THE APPROPRIATE
17 JUDGE.

18 IN THE MEANTIME UNITED WILL NOT ISSUE NEW SUBPOENAS
19 OR NEW DISCOVERY REQUESTS TO THIRD PARTIES OR TO THE PARTIES
20 THEMSELVES UNTIL THE STAY IS DECIDED.

21 THE COURT: TO ANY THIRD PARTIES?

22 MR. ZAYED: YES. WE'RE GOING TO HOLD OFF UNTIL THE
23 COURT DECIDES. WE WANT TO MAKE SURE THAT WE'RE ALL -- WITH
24 RESPECT TO YOUR MOTION TODAY, THE MOTION TODAY, YOUR ORDER,
25 YOUR TENTATIVE, WE BELIEVE THAT THAT WILL BE FINAL AND

1 APPROPRIATE.

2 THEY MAY APPEAL. WHAT I'VE AGREED TO DO ON BEHALF
3 OF UNITED IS I WILL NOT SEEK TO ENFORCE THE SUBPOENAS THAT
4 ARE THE SUBJECT OF THIS COURT'S ORDER UNTIL THAT
5 DETERMINATION IS FINALLY ADJUDICATED AND I HAVE THE GREEN
6 LIGHT TO PROCEED.

7 AS TO THAT, I'M GOING TO CONTINUE UNLESS THERE'S A
8 MOTION TO STAY THAT'S --

9 MR. KREINDLER: AND WE'LL PREPARE A STIPULATION TO
10 THAT EFFECT, YOUR HONOR.

11 THE COURT: THAT'S ALL FINE. OKAY.

12 ON ANOTHER -- ARE WE DONE WITH THESE MOTIONS?

13 MR. ZAYED: YES.

14 MR. KREINDLER: I'M DONE.

15 THE COURT: WOW. 10 MINUTES WORKED, HUH. REMEMBER
16 HOW IT WAS, YOU KNOW, YOU GET JUDGES WHO SET UNREALISTICALLY
17 SHORT TIMES. AND THEN YOU MEET THEM. AND THEN THE JUDGES
18 GET TRAINED LIKE A PAVLOVIAN ANIMAL THAT, GEE, IF I SET SHORT
19 LIMITS, THEY'RE GOING TO DO IT. AND IT GETS SHORTER AND
20 SHORTER.

21 MR. KREINDLER: THAT'S WHEN YOU GET 10 MINUTES TO
22 PUT ON YOUR CASE IN CHIEF THAT WE GET A LITTLE NERVOUS.

23 THE COURT: I THINK I KNOW WHAT COURT YOU MIGHT BE
24 REFERRING TO.

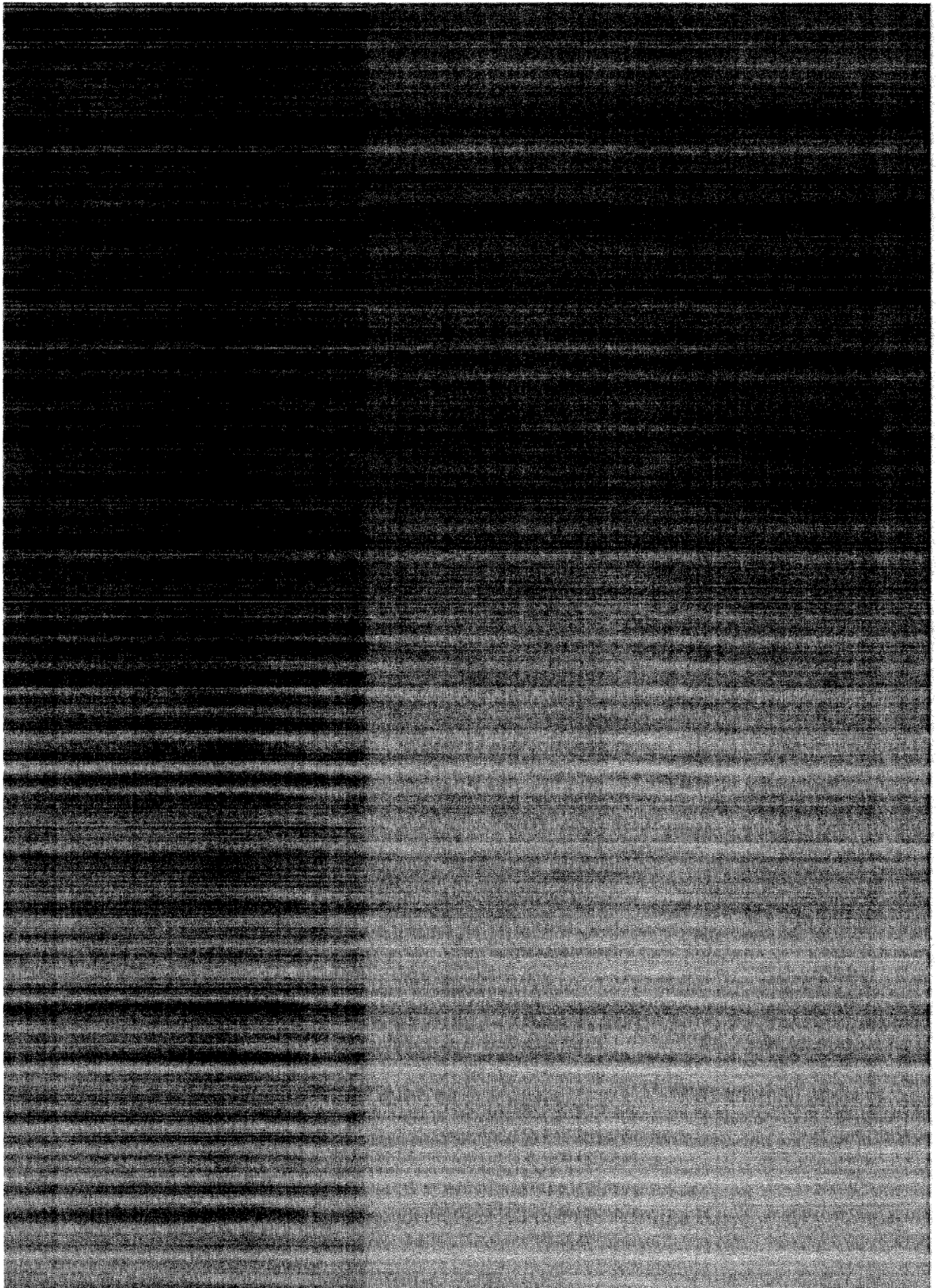
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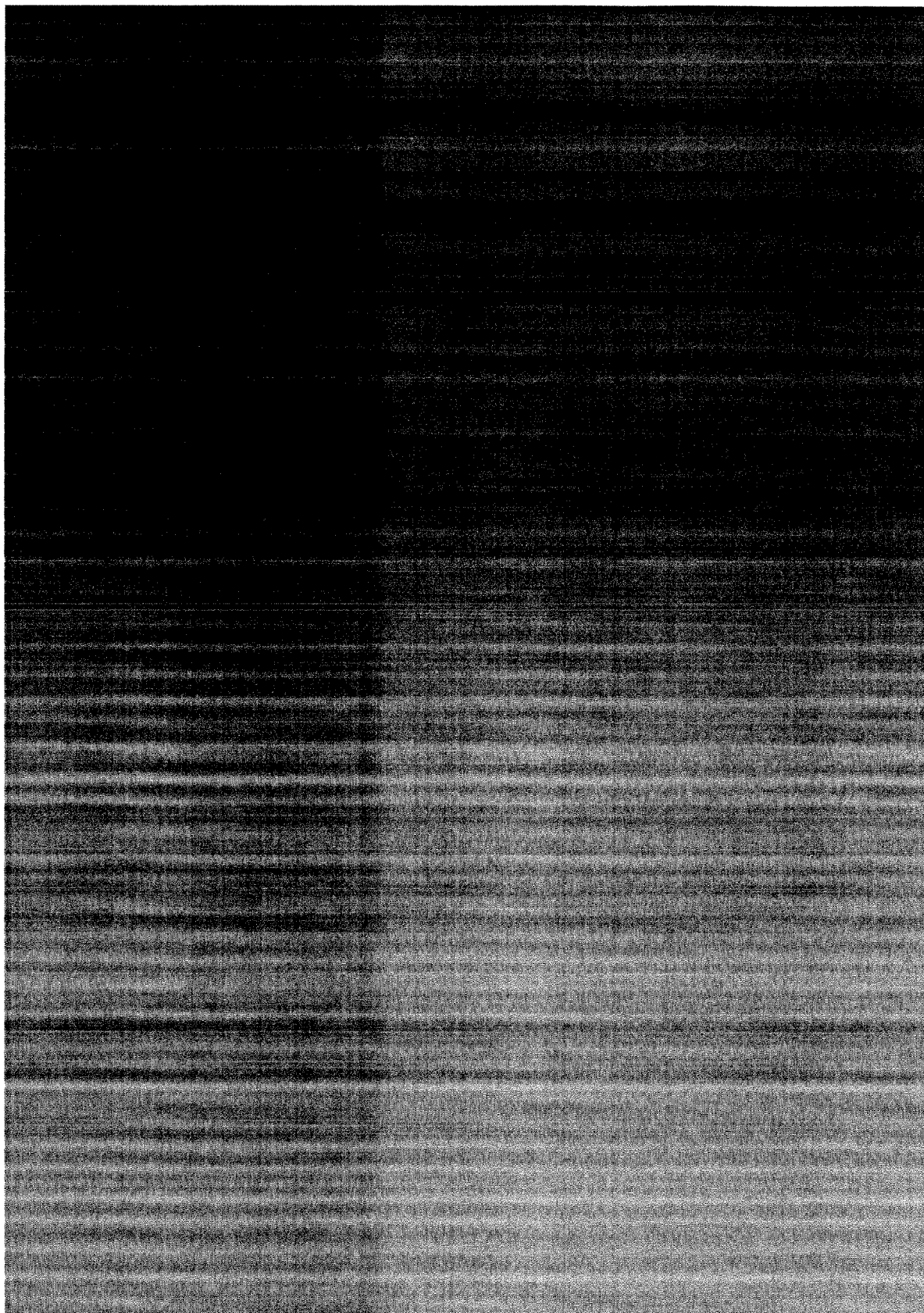


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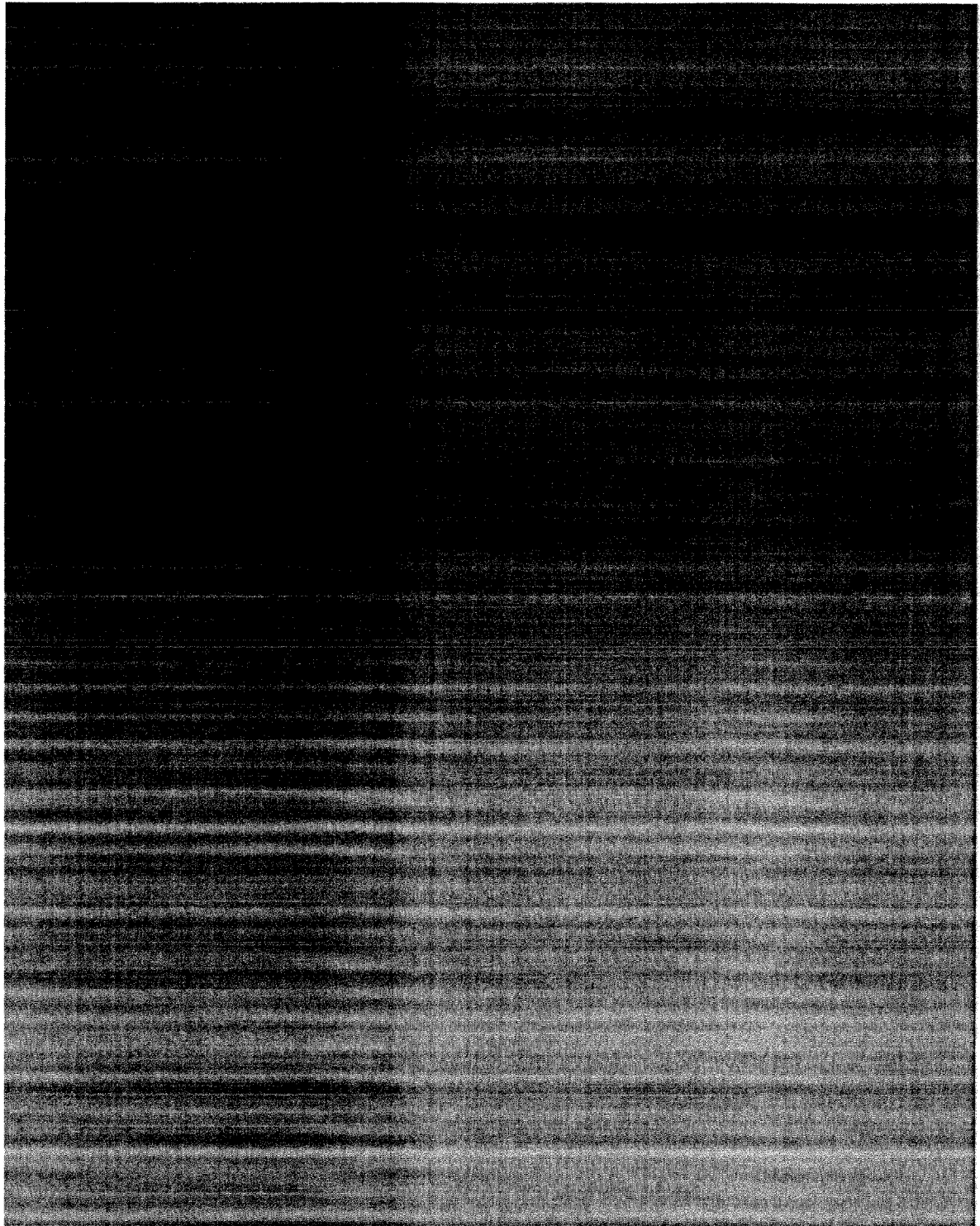
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THE COURT: AND I RESPECT THAT. I RESPECT ALL
COUNSEL. I WOULD APPRECIATE, ALSO, A SENSE OF CIVILITY THAT
I SEE IN SPITE OF GOOD ADVOCACY BEING DISPLAYED. AND THAT'S

21

1 ALWAYS GOOD TO SEE.

2 ALL RIGHT.

3 MR. KREINDLER: THANK YOU, YOUR HONOR.

4 THE COURT: THANK YOU, ALL.

5 MR. ZAYED: THANK YOU, YOUR HONOR.

6 THE CLERK: COURT IS ADJOURNED.

7 (PROCEEDINGS ADJOURNED AT 10:21 A.M.)

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C E R T I F I C A T E

I CERTIFY THAT THE FOREGOING IS A CORRECT
TRANSCRIPT FROM THE ELECTRONIC SOUND RECORDING OF THE
PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

/S/ DOROTHY BABYKIN

12/20/14

FEDERALLY CERTIFIED TRANSCRIBER

DATED

DOROTHY BABYKIN

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 333 South Hope Street, 43rd Floor, Los Angeles, CA 90071-1422.

On December 31, 2014, I served true copies of the following document(s) described as **COUNTERCLAIM DEFENDANTS' UNOPPOSED EX PARTE APPLICATION FOR REDACTION OF TRANSCRIPT** on the interested parties in this action.

☒ **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on December 31, 2014, at Los Angeles, California.

/s/Pamila Chand
Pamila Chand

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